



Energy & Utilities Subcommittee

Tuesday, March 18, 2014

3:00 PM

Webster Hall (212 Knott)

MEETING PACKET



The Florida House of Representatives

Regulatory Affairs Committee Energy & Utilities Subcommittee

**Will Weatherford
Speaker**

**Jose Felix Diaz
Chair**

AGENDA

March 18, 2014
3:00 pm – 5:00 pm
Webster Hall (212 Knott)

Opening Remarks by Chair Diaz

Consideration of the following bills:

HB 813 – Water and Wastewater Utilities (by Mayfield)
HB 4017 – Cable and Video Services (by Rodrigues, R.)

Consideration of the following proposed committee bill:

PCB EUS 14-01 – Department of Agriculture & Consumer Services

Closing Remarks by Chair Diaz

Adjournment

Committee Meeting Notice

HOUSE OF REPRESENTATIVES

Energy & Utilities Subcommittee

Start Date and Time: Tuesday, March 18, 2014 03:00 pm
End Date and Time: Tuesday, March 18, 2014 05:00 pm
Location: Webster Hall (212 Knott)
Duration: 2.00 hrs

Consideration of the following bill(s):

HB 813 Water and Wastewater Utilities by Mayfield
HB 4017 Cable and Video Services by Rodrigues, R.

Consideration of the following proposed committee bill(s):

PCB EUS 14-01 -- Department of Agriculture & Consumer Services

Pursuant to rule 7.12, the filing deadline for amendments to bills on the agenda by a member who is not a member of the committee or subcommittee considering the bill is 6:00 p.m., Monday, March 17, 2014.

By request of the Chair, all Energy & Utilities Subcommittee members are asked to have amendments to bills on the agenda submitted to staff by 6:00 p.m., Monday, March 17, 2014.

NOTICE FINALIZED on 03/14/2014 16:28 by McCloskey.Michele

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 813 Water and Wastewater Utilities
SPONSOR(S): Mayfield
TIED BILLS: IDEN./SIM. **BILLS:** SB 1248

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Energy & Utilities Subcommittee		AK Keating	AK Keating
2) Government Operations Appropriations Subcommittee			
3) Regulatory Affairs Committee			

SUMMARY ANALYSIS

HB 813 amends several sections of Florida law related to the provision of water and sewer utility services by a municipality in unincorporated areas of a county. In particular, the bill:

- Prohibits the extension or application of municipal powers to engage in public works, including water and sewer utility services, in the unincorporated areas of a county without consent of the county;
- Provides counties, either upon expiration of an existing franchise agreement or other fixed term arrangement or in the absence of a fixed term, the option to acquire at fair market value any municipal water and sewer facilities that are used to serve an unincorporated area of the county;
- Limits municipal rates and charges established for customers outside the municipal boundaries to a level no more than 25 percent greater than the rates and charges applicable to customers within the municipal boundaries, and requires the PSC to review and approve any rate differential applied to customers outside the municipal boundaries;
- Establishes conditions under which a municipality, subject to PSC review, may impose an additional surcharge, not to exceed 25 percent, on customers in the unincorporated area of a county, and establishes a phase-out period for such surcharges;
- Provides that a municipal water or sewer service customer who receives service in an unincorporated area may petition the PSC to review the rates and charges of the municipality, and requires the PSC to determine whether the rates and charges are just and reasonable; and
- Requires the PSC to approve a municipality's acquisition of facilities that will be used to serve customers in unincorporated areas of a county, and identifies the information that must be provided to and reviewed by the PSC.

The bill may have a positive impact on state revenues and will increase state expenditures. The bill will reduce revenues to some municipalities that provide water and sewer service to customers outside their municipal boundaries, though a municipality may offset the revenue reduction by restructuring its rates. The bill may result in regulatory costs for municipalities that charge a rate differential for such service, or that acquire private utility systems.

This bill may be a Mandate requiring a 2/3 vote of the membership. See Mandates section of the analysis

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Section 1 of Article VIII of the State Constitution establishes the powers of non-charter counties and charter counties. Non-charter counties have the power of self-government as provided by general law or special law. Charter counties have broader powers; these counties have all powers of local self-government not inconsistent with general law or special law and may enact ordinances not inconsistent with general law.

Among other things, general law provides all counties the power to provide and regulate water and sewer utility services.¹ However, a county may not construct, own, or operate any water or sewer facilities on property within the corporate limits of a municipality without the consent of the municipality's governing body.² In addition, a county may not furnish any such facilities to property already being furnished similar facilities by a municipality without the consent of the municipality's governing body.³

Pursuant to s. 2(b), Art. VIII of the State Constitution, municipalities have the governmental, corporate, and proprietary powers to enable them to conduct municipal government, perform municipal functions, and render municipal services, and may exercise any power for municipal purposes, except when expressly prohibited by law.⁴ The legislative body of each municipality has the power to enact legislation on any subject upon which the state Legislature may act with certain exceptions.⁵

Municipalities are authorized by general law to provide water and sewer utility services.⁶ With respect to public works projects, including water and sewer utility services,⁷ municipalities may extend and execute their corporate powers outside of their corporate limits as "desirable or necessary for the promotion of the public health, safety and welfare."⁸ A municipality may not extend or apply these corporate powers within the corporate limits of another municipality.⁹ However, it may permit any other municipality and the owners of lands outside its corporate limits or within the limits of another municipality to connect with its water and sewer utility facilities and use its services upon agreed terms

¹ Pursuant to s. 125.01(1)(k), F.S., a county may "provide and regulate waste and sewage collection and disposal, water and alternative water supplies, including, but not limited to, reclaimed water and water from aquifer storage and recovery and desalination systems, and conservation programs." Further, s. 153.03(1), F.S., authorizes counties to "purchase and/or construct and to improve, extend, enlarge, and reconstruct a water supply system or systems or sewage disposal system or systems within such county and any adjoining county or counties . . ."

² Section 153.03(1), F.S. An exception exists where such facilities were owned by the county on such property prior to the time such property was included within the corporate limits of such municipality.

³ *Id.*

⁴ Section 166.021(2), F.S., provides that any activity or power which may be exercised by the state or its political subdivisions is considered a municipal purpose.

⁵ Pursuant to s. 166.021(3), F.S., a municipality may not enact legislation on the following: the subjects of annexation, merger, and exercise of extraterritorial power, which require general law or special law; any subject expressly prohibited by the constitution; any subject expressly preempted to state or county government by the constitution or by general law; and any subject preempted to a county pursuant to a county charter adopted under the authority of the State constitution.

⁶ Pursuant to s. 180.06, F.S., a municipality may "provide water and alternative water supplies;" "provide for the collection and disposal of sewage, including wastewater reuse, and other liquid wastes;" and "construct reservoirs, sewerage systems, trunk sewers, intercepting sewers, pumping stations, wells, siphons, intakes, pipelines, distribution systems, purification works, collection systems, treatment and disposal works" to accomplish these purposes.

⁷ Other public works projects authorized under s. 180.06, F.S., include alternative water supplies, maintenance of water flow and bodies of water for sanitary purposes, garbage collection and disposal, airports, hospitals, jails, golf courses, gas plants and distribution systems, and related facilities.

⁸ Section 180.02(2), F.S.

⁹ *Id.*

and conditions.¹⁰ A recent informal survey of municipalities in Florida indicates that 254 municipalities provide water services and 222 municipalities provide wastewater service. Of these municipalities, 137 provide water and/or wastewater service to customers outside of their municipal boundaries, which may include customers in unincorporated areas of counties or in other municipalities.

The governing body of a municipality may create a separate board or may designate certain officers of the municipality to supervise and control the operation of its water and sewer utilities. The board or designated officers may make all necessary rules or regulations governing the use, control and operation of the utilities, subject to the approval of the city's governing body. Further, the city's governing body may establish just and equitable rates or charges to be paid for its utility services.¹¹

A municipality that operates a water or sewer utility outside of its municipal boundaries may impose higher rates, fees, and charges on consumers receiving service outside of its corporate boundaries as compared to the rates, fees, and charges imposed on consumers within its boundaries. The municipality can accomplish this in two ways:

- First, for consumers outside of its boundaries, it may add a surcharge of up to 25 percent of the rates, fees, and charges imposed on consumers within its boundaries. This mechanism does not require a public hearing.¹²
- Second, it may set separate rates, fees, and charges for consumers outside its boundaries based on the same factors used to set rates for consumers within its boundaries. It may add a surcharge of up to 25 percent of these charges, provided that the total of all such rates, fees, and charges for service to consumers outside its boundaries may not exceed the total charges to consumers within its boundaries by more than 50 percent for corresponding service. Rates set in this manner require a public hearing at which all users served or to be served by the water or sewer utilities and all other interested persons will have an opportunity to be heard concerning the proposed rates.¹³

In either case, there is no requirement that the municipality establish a cost basis for any surcharge. There is no central repository for information concerning municipal water or sewer service rates that identifies municipalities that impose higher rates on consumers outside of the municipal boundaries, the specific mechanism used by such municipalities to establish such rates, or the level of any additional charge or surcharge imposed.

For privately-owned utilities operating within a single county, the county has the option to regulate rates and service or allow the Public Service Commission to regulate those utilities.¹⁴ The PSC currently has jurisdiction over privately-owned water and wastewater utilities in 37 of the 67 counties in Florida.¹⁵ All water and sewer utility systems owned or operated by governmental authorities, including municipalities and counties, are exempt from regulation by the PSC.¹⁶ Further, the sale of an investor-owned water or sewer utility system to a governmental authority must be approved by the PSC as a

¹⁰ Section 180.19, F.S.

¹¹ Section 180.13, F.S.

¹² Section 180.191(1)(a), F.S.

¹³ Section 180.191(1)(b), F.S.

¹⁴ Section 367.171, F.S. If a county chooses to allow regulation by the PSC, it may rescind this choice only after 10 continuous years of PSC regulation.

¹⁵ Counties that currently elect FPSC regulation are Alachua, Bradford, Brevard, Broward, Charlotte, Clay, Duval, Escambia, Franklin, Gadsden, Gulf, Hardee, Highlands, Jackson, Lake, Lee, Levy, Manatee, Marion, Martin, Monroe, Nassau, Okaloosa, Okeechobee, Orange, Osceola, Palm Beach, Pasco, Pinellas, Polk, Putnam, Seminole, St. Johns, St. Lucie, Sumter, Volusia, and Washington. See <http://www.psc.state.fl.us/utilities/waterwastewater/index.aspx> (last viewed on March 14, 2014) for a map and a list of jurisdictional and non-jurisdictional counties.

¹⁶ Section 367.022(2), F.S.

matter of right.¹⁷ However, Florida law requires a public hearing and a public interest finding by the purchasing county¹⁸ or municipality¹⁹ prior to the purchase of a water or sewer utility system. In particular, a county or city must consider the following in determining whether the acquisition of the water or sewer utility system is in the public interest:

- The most recent available income and expense statement for the utility;
- The most recent available balance sheet for the utility, listing assets and liabilities and clearly showing the amount of contributions-in-aid-of-construction and the accumulated depreciation thereon;
- A statement of the existing rate base of the utility for regulatory purposes;
- The physical condition of the utility facilities being purchased;
- The reasonableness of the purchase price and terms;
- The impacts of the purchase on utility customers, both positive and negative;
- Any additional investment required and the ability and willingness of the purchaser to make that investment;
- The alternatives to the purchase and the potential impact on utility customers if the purchase is not made; and
- The ability of the purchaser to provide and maintain high-quality and cost-effective utility service.²⁰

The county or municipality must prepare a statement showing that the purchase is in the public interest, including a summary of its experience in water or sewer utility operation and a showing of financial ability to provide the service.²¹

Effect of Proposed Changes

HB 813 amends several sections of Florida law related to the provision of water and sewer utility services by a municipality in unincorporated areas of a county and the rates charged by a municipal water and sewer utility to customers outside its municipal boundaries.

Provision of Municipal Water and Wastewater Service in Unincorporated Areas

The bill prohibits a municipality from extending or applying its corporate powers to engage in public works projects within the unincorporated areas of a county unless the county provides its express consent through a majority of its commissioners at a duly noticed meeting. This provision requires county approval of new municipal public works to be located in the unincorporated areas of a county, and it appears to require county approval of existing public works in such areas.

The bill provides conditions under which counties may acquire, at fair market value, municipal water and sewer facilities that are used to serve an unincorporated area of the county. The county would then provide service to the unincorporated area. First, if a municipality is providing service to the area under a franchise agreement with the county or pursuant to a resolution or ordinance, the county may acquire the facilities used to serve the area upon the expiration of the franchise agreement, resolution, or ordinance. Second, if the municipality is providing service to the area under a franchise agreement, resolution, or ordinance with no expiration date, the county may acquire the facilities and provide service to the area if a majority of the customers in the area agree to be served by the county. The bill

¹⁷ Section 367.071(4), F.S. Before taking official action on such an acquisition, the governmental authority must obtain from the utility or the PSC specified accounting records for the facilities, including the most recent available income and expense statement, balance sheet, and statement of rate base for regulatory purposes and contributions-in-aid-of-construction.

¹⁸ Section 125.3401, F.S.

¹⁹ Section 180.301, F.S.

²⁰ Sections 125.3401, F.S., and 180.301, F.S.

²¹ *Id.*

requires that the customers' vote be taken by referendum or by written response to a mail survey. It is not clear whether a referendum can be conducted solely for this limited class of customers.

The bill requires PSC approval before a municipality acquires, in whole or in part, the facilities of a utility that serves customers in the unincorporated areas of a county. As part of its review, the PSC must review the utility's most recent available income and expense statement, balance sheet, contributions-in-aid-of-construction, rates, classification, and charges for service of every kind provided by the utility. The municipality must provide the PSC its proposed rate structure, including proposed rates, fees, and charges for ratepayers within the municipal boundaries and for ratepayers in unincorporated areas of the county to be served by the municipality. The bill does not provide criteria for the PSC to use to evaluate the proposed transaction.

Municipal Rates for Customers Outside the Municipal Boundaries

The bill establishes new limits for the rates and charges that municipalities may impose upon its water and sewer service customers located outside the municipal boundaries.

First, the bill tightens the limit on the total rates charged to customers outside the municipality to no more than 25 percent (rather than the current 50 percent) more than the rates charged to customers within the municipality. The bill requires that any differential between rates charged to these two customer classes be reviewed by the PSC to determine if the rates are just and equitable. This provision may be interpreted to grant the PSC full ratemaking authority over these utilities.

Second, the bill establishes limits on a municipality's authority to impose any additional surcharge (up to 25 percent) on customers in unincorporated areas of a county, effectively establishing a phase-out period for such surcharges unless approved by the PSC as follows:

- Effective July 1, 2014, a municipality may not impose *any new or increased surcharge* on such customers unless the PSC finds that the surcharge is necessary for repayment of that portion of bonds issued by the municipality to finance the facilities used to serve the unincorporated area;
- Effective July 1, 2018, a municipality may not impose *any surcharge above 15 percent that was imposed before July 1, 2014*, unless the PSC finds that the surcharge is necessary for repayment of that portion of bonds issued by the municipality to finance the facilities used to serve the unincorporated area; and
- Effective July 1, 2024, a municipality may not impose *any surcharge* unless the PSC finds that the surcharge is necessary for repayment of that portion of bonds issued by the municipality to finance the facilities used to serve the unincorporated area.

In each case, the PSC must determine the appropriate rate and duration of the surcharge (subject to the 25 percent cap) necessary to accomplish bond repayment.

In addition, the bill provides that a municipal water or sewer service customer who receives service in an unincorporated area may petition the PSC to review the rates and charges of the municipality. The PSC must accept the petition and determine whether the rates and charges are just and equitable. This provision may be interpreted to grant the PSC full ratemaking authority over these utilities when a rate review is sought by a customer.

A recent informal survey of municipalities in Florida indicates that 137 municipalities provide water and/or wastewater service to customers outside of their municipal boundaries. These customers may be located in unincorporated areas of counties or in other municipalities. The bill would require the PSC to oversee, to the extent noted above, the rates and charges of these 137 municipal water and wastewater utilities.

B. SECTION DIRECTORY:

Section 1. Provides a short title for the act.

Section 2. Amends s. 153.03, F.S., related to the power of counties to provide water and sewer services.

Section 3. Amends s. 180.02, F.S., related to the power of municipalities to provide public works.

Section 4. Amends s. 180.181, F.S., related to limitations on municipal rates charged to consumers outside city limits.

Section 5. Amends s. 367.022, F.S., related to exemptions to regulation by the Public Service Commission.

Section 6. Amends s. 367.071, F.S., related to the sale, assignment, or transfer of certificates of authorization, facilities, or control.

Section 7. Provides an effective date of July 1, 2014.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

Indeterminate. Municipalities subjected to Public Service Commission (PSC) oversight under the bill may be required to pay regulatory assessment fees to the PSC. To the extent that payment of such fees is required, these fees likely will be credited to the Florida Public Service Regulatory Trust Fund which is used by the PSC in the performance of its functions and duties.

2. Expenditures:

The PSC will incur additional costs to implement the provisions of the bill that require it to review and approve municipal acquisitions of utility facilities in unincorporated areas, to review rate differentials between customers within and outside the municipal boundaries, to review and approve surcharges imposed on customers in unincorporated areas, and to review rates at the request of a customer in an unincorporated area.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

Individual municipalities that provide water and wastewater service outside of their municipal boundaries may experience a reduction in revenues as a result of changes to rates or surcharges required by the PSC under the bill. A municipality that currently charges rates to customers outside its municipal boundaries that are more than 25 percent greater than the rates charged to customers within its municipal boundaries will experience a reduction in revenues. A municipality may offset these revenue impacts by restructuring its rates.

2. Expenditures:

A municipality that provides water and wastewater service outside of its municipal boundaries and charges any rate differential for such service will incur regulatory costs associated with required rate and surcharge filings made to the PSC. A municipality may avoid these costs by restructuring its rates. A municipality that acquires the facilities of a utility that serves customers in the unincorporated areas of a county will incur regulatory costs associated with PSC review of the

acquisition. Municipalities and counties may incur costs associated with the bill's requirement that a county consent to the application or extension of municipal powers to provide public works in unincorporated areas of a county, which appears to include existing public works.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

The PSC indicated that it is unable to provide a reliable estimate of its costs to implement the bill without a precise accounting of how many water and sewer systems it may be required to oversee. According to the PSC, it currently regulates approximately 150 investor-owned water and wastewater companies. A recent informal survey of municipalities in Florida indicates that 137 municipalities provide water and/or wastewater service to customers outside of their municipal boundaries.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The mandates provision appears to apply because this bill reduces the authority of municipalities to raise revenues by limiting the overall rate differential that a municipality may charge for water and sewer services provided to customers outside the municipal boundaries and by limiting the application of surcharges for municipal water and sewer services provided to such customers. Sufficient information is not currently available to demonstrate whether the bill qualifies for an exemption based on its fiscal impact. The bill does not appear to qualify for any other exemption or exception. In sum, it appears that the bill must have a 2/3 vote of the membership of each house.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

Not applicable.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

1 A bill to be entitled
 2 An act relating to water and wastewater utilities;
 3 providing a short title; amending s. 153.03, F.S.;
 4 prohibiting a county from providing water or sewer
 5 services in unincorporated areas covered by an
 6 agreement with a municipality to provide such services
 7 in such unincorporated areas; authorizing the county
 8 to provide water and sewer services upon expiration of
 9 an agreement under certain circumstances; authorizing
 10 the county to provide water and sewer services in
 11 certain circumstances when the agreement does not
 12 contain an expiration date; amending s. 180.02, F.S.;
 13 specifying that the corporate powers of a municipality
 14 do not apply to the unincorporated areas of a county
 15 without the county's express consent; amending s.
 16 180.191, F.S.; limiting the amount of water and sewer
 17 utility rates, fees, and charges that a municipality
 18 may impose on consumers outside of the municipality's
 19 boundaries; requiring the Public Service Commission's
 20 approval of such rates, fees, and charges in certain
 21 circumstances; limiting the amount of water and sewer
 22 utility surcharges that a municipality may impose on
 23 ratepayers in unincorporated areas of a county;
 24 prohibiting new surcharges or increases in existing
 25 surcharges except in certain circumstances; requiring
 26 surcharges to be dedicated tor repayment of bonds;

27 requiring the commission's approval of such surcharges
 28 in certain circumstances; providing for expiration of
 29 surcharges imposed before a specified date;
 30 authorizing ratepayers in unincorporated areas to
 31 petition the commission for determination whether
 32 rates, fees, and charges imposed by a municipality are
 33 just and equitable; amending s. 367.022, F.S.;
 34 providing that the commission has regulatory authority
 35 over a municipality that provides water or wastewater
 36 utility service in unincorporated areas of a county;
 37 amending s. 367.071, F.S.; requiring commission
 38 approval before a municipality may purchase certain
 39 water or wastewater facilities; providing an effective
 40 date.

41

42 Be It Enacted by the Legislature of the State of Florida:

43

44 Section 1. This act may be cited as the "Ratepayer
 45 Representation Act."

46 Section 2. Section 153.03, Florida Statutes, is amended to
 47 read:

48 153.03 General grant of power. -A county ~~Any of the several~~
 49 ~~counties of the state which may hereafter come under the~~
 50 ~~provisions of this chapter as hereinafter provided~~ is hereby
 51 authorized ~~and empowered~~:

52 (1) To purchase or ~~and/or~~ construct and to improve,

53 extend, enlarge, or ~~and~~ reconstruct a water supply system ~~or~~
 54 ~~systems~~ or sewage disposal system ~~or systems, or both,~~ within
 55 the such county and any adjoining ~~county or counties;~~ and to
 56 ~~purchase and/or construct or reconstruct water system~~
 57 ~~improvements or sewer improvements, or both, within such county~~
 58 ~~and any adjoining county or counties and to operate, manage, and~~
 59 control those all ~~such~~ systems ~~so purchased and/or constructed~~
 60 and all properties pertaining thereto; and to furnish ~~and supply~~
 61 water and sewage collection and disposal services to any of such
 62 counties and to any municipalities and any persons, firms, or
 63 corporations, public or private, in any of such counties. +
 64 ~~provided,~~ However, ~~that~~ none of the facilities described in
 65 ~~provided by~~ this chapter may be constructed, owned, operated, or
 66 maintained by the county on property located within the
 67 corporate limits of a any municipality without the consent of
 68 the governing council, ~~commission or body having general~~
 69 ~~legislative authority in the government~~ of such municipality
 70 unless the such facilities were owned by the county before the
 71 ~~on such property prior to the time such~~ property was included
 72 within the corporate limits of the such municipality.

73 (a) If a municipality and a county have entered into a
 74 franchise agreement, resolution, or ordinance that authorizes
 75 the municipality to provide water and sewage collection and
 76 disposal services in an unincorporated area of the county, the
 77 ~~No~~ county may not shall furnish any of the facilities described
 78 in provided by this chapter to that unincorporated area any

79 ~~property already being furnished like facilities by any~~
 80 ~~municipality~~ without the express consent of the governing
 81 ~~council, commission or body having general legislative authority~~
 82 ~~in the government~~ of that such municipality until the franchise
 83 agreement, resolution, or ordinance has expired. The county must
 84 also compensate the municipality for the fair market value of
 85 the facilities owned by the municipality that are transferred to
 86 the county to serve the unincorporated area of the county.

87 (b) If the franchise agreement, resolution, or ordinance
 88 contains no expiration date, the county may provide services
 89 subject to meeting the following requirements:

90 1. A majority of the ratepayers in the unincorporated area
 91 of the county served by the municipality, either by vote in a
 92 referendum or written response to a mail survey, have agreed to
 93 be served by the county; and

94 2. The county compensates the municipality for the fair
 95 market value of such facilities owned by the municipality that
 96 are transferred to the county to serve the unincorporated area
 97 of the county.

98 (2) To issue water revenue bonds and/or sewer revenue
 99 bonds or general obligation bonds of the county to pay all or a
 100 part of the cost of such purchase and/or construction or
 101 reconstruction.

102 (3) To fix and collect rates, fees and other charges for
 103 the service and facilities furnished by any such water supply
 104 system or water system improvements and sewage disposal system

105 or sewer improvements and to fix and collect charges for making
 106 connections with the water system of the county.

107 (4) To receive and accept from the Federal Government or
 108 any agency thereof grants for or in aid of the planning,
 109 purchase, construction, reconstruction, or financing of any
 110 facility and to receive and accept contributions from any source
 111 of either money, property, labor, or other things of value to be
 112 held, used, and applied only for the purpose for which such
 113 grants and contributions may be made.

114 (5) To acquire in the name of the county by gift, purchase
 115 as hereinafter provided or by the exercise of the right of
 116 eminent domain, such lands and rights and interests therein,
 117 including lands under water and riparian rights, and to acquire
 118 such personal property as it may deem necessary for the
 119 efficient operation or for the extension of or the improvement
 120 of any facility purchased or constructed under the provisions of
 121 this chapter and to hold and dispose of all real and personal
 122 property under its control; provided, however, that no county
 123 shall have the right to exercise the right of eminent domain
 124 over any such lands or rights or interests therein or any
 125 personal property owned by any municipality within the state nor
 126 to exercise such right with respect to any privately owned water
 127 supply system or sewage disposal system including without
 128 limitation ponds, streams and surface waters constituting a part
 129 thereof, provided any such system is primarily used, owned or
 130 operated by an industrial or manufacturing plant for its own use

131 as a water supply system or in disposing of its industrial
 132 wastes.

133 (6) To make and enter into all contracts and agreements
 134 necessary or incidental to the performance of its duties and the
 135 execution of its powers under this chapter and to employ such
 136 consulting and other engineers, superintendents, managers,
 137 construction and accounting experts and attorneys and such other
 138 employees and agents as it may deem necessary in its judgment
 139 and to fix their compensation.

140 (7) Subject to the provisions and restrictions as may be
 141 set forth in the resolution hereinafter mentioned authorizing or
 142 securing any bonds issued under the provisions of this chapter
 143 to enter into contracts with the government of the United States
 144 or any agency or instrumentality thereof or with any other
 145 county or with any municipality, private corporation,
 146 copartnership, association, or individual providing for or
 147 relating to the acquisition and supplying of water and the
 148 collection, treatment and disposal of sewage.

149 (8) To acquire by gift or purchase at a price to be
 150 mutually agreed upon, any of the facilities or portions thereof,
 151 provided for by this chapter, which shall, prior to such
 152 acquisition, have been owned by any private person, group, firm,
 153 partnership, association or corporation; provided, however, if
 154 the price for same cannot be agreed upon, the price shall be
 155 determined by an arbitration board consisting of three persons,
 156 one of whom shall be selected by the board of county

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157 commissioners, one shall be appointed by the private company or
 158 corporation, and the two persons so selected shall select a
 159 third member of said board; and provided, further, that in the
 160 event said board cannot agree as to the price to be paid by the
 161 said board of county commissioners, then the board of county
 162 commissioners shall exercise the right of eminent domain.

163 (9) To enter into agreements and contracts with building
 164 contractors erecting improvements within any duly platted
 165 subdivision within the county, the terms of which said
 166 agreements or contracts may provide that such building
 167 contractors shall install within such subdivision water mains,
 168 lines and equipment and sewer mains and lines, to be approved by
 169 the county commission, said mains and lines to run to a point or
 170 location to be agreed upon, at which said point or location said
 171 mains and lines shall be connected to the water supply system or
 172 water system improvements and/or to the sewage disposal system
 173 or sewer improvements of the county. In the event such
 174 agreements or contracts are entered into they shall provide that
 175 upon the connection of the mains or lines within the subdivision
 176 to the water or sewer facilities of the county said mains, lines
 177 and equipment running to the various privately owned parcels of
 178 land within such subdivision shall become the property of the
 179 county and shall become a part of the county water system
 180 improvements and/or sewer improvements.

181 (10) To restrain, enjoin or otherwise prevent any person
 182 or corporation, public or private, from contaminating or

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183 | polluting (as defined in s. 387.08) any source of water supply
 184 | from which is obtained water for human consumption to be used in
 185 | any water supply system or water system improvement as
 186 | authorized by this chapter, and to restrain, enjoin or otherwise
 187 | prevent the violation of any provision of this chapter or any
 188 | resolution, rule or regulation adopted pursuant to the powers
 189 | granted by this chapter; provided, however, that this chapter
 190 | shall not apply to or affect any existing contract that a
 191 | municipality may have for water or sewage disposal without the
 192 | consent of both parties to said contract but this subsection
 193 | shall not authorize the institution or prosecution of any
 194 | proceeding hereunder nor the adoption of any resolution, rule or
 195 | regulation which shall in anywise affect the right of any
 196 | industrial or manufacturing plant to discharge industrial waste
 197 | into any nonnavigable or navigable waters unless such waters are
 198 | now being used or are hereafter used hereunder as a source of
 199 | water for human consumption and unless the industrial wastes of
 200 | any such plant are not being discharged into such waters prior
 201 | to the time that action is taken by the commission under this
 202 | chapter to include such water as a part of any water supply
 203 | system.

204 | (11) To acquire by gift or purchase, at such price, and
 205 | upon such deferred or other terms, as may be mutually agreed
 206 | upon, all the capital stock of any domestic or foreign
 207 | corporation which, prior to such acquisition, shall have owned
 208 | or operated any of the facilities or portions thereof provided

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209 for by this chapter; to pledge the revenues from the facilities
 210 as security for payment of the purchase price for said stock;
 211 and to operate the facilities through the corporation so
 212 acquired or to dissolve said corporation and operate the
 213 facilities in any other manner authorized by law.

214 Section 3. Subsection (2) of section 180.02, Florida
 215 Statutes, is amended to read:

216 180.02 Powers of municipalities.-

217 (2) A ~~Any~~ municipality may extend and execute all of its
 218 applicable corporate powers to accomplish ~~applicable for the~~
 219 ~~accomplishment of~~ the purposes of this chapter outside of its
 220 corporate limits, ~~as hereinafter provided and~~ as may be
 221 desirable or necessary to promote ~~for the promotion of~~ the
 222 public health, safety, and welfare or to accomplish ~~for the~~
 223 ~~accomplishment of~~ the purposes of this chapter, ~~provided,~~
 224 However, such ~~that said~~ corporate powers do ~~shall~~ not extend or
 225 apply within the corporate limits of another municipality or
 226 extend or apply within the unincorporated areas of a county
 227 without the express consent of a majority of the commissioners
 228 at a duly noticed meeting of the board of county commissioners
 229 of that county.

230 Section 4. Section 180.191, Florida Statutes, is amended
 231 to read:

232 180.191 Limitation on rates charged consumer outside city
 233 limits.-

234 (1) Any municipality within the state operating a water or

235 sewer utility outside of the boundaries of such municipality
 236 shall charge consumers outside the boundaries rates, fees, and
 237 charges determined in one of the following manners:

238 (a) It may charge the same rates, fees, and charges as
 239 consumers inside the municipal boundaries. ~~However, in addition~~
 240 ~~thereto, the municipality may add a surcharge of not more than~~
 241 ~~25 percent of such rates, fees, and charges to consumers outside~~
 242 ~~the boundaries.~~ Fixing of such rates, fees, and charges in this
 243 manner shall not require a public hearing except as may be
 244 provided for service to consumers inside the municipality.

245 (b) It may charge rates, fees, and charges that are just
 246 and equitable and which are based on the same factors used in
 247 fixing the rates, fees, and charges for consumers inside the
 248 municipal boundaries. ~~In addition thereto, the municipality may~~
 249 ~~add a surcharge not to exceed 25 percent of such rates, fees,~~
 250 ~~and charges for said services to consumers outside the~~
 251 ~~boundaries.~~ However, the total of all such rates, fees, and
 252 charges for the services to consumers outside the boundaries
 253 shall not be more than 25 50 percent greater than ~~in excess of~~
 254 the total amount the municipality charges consumers served
 255 within the municipality for corresponding service. No such
 256 rates, fees, and charges shall be imposed which are greater than
 257 the total amount charged to consumers within the municipal
 258 boundaries until the Public Service Commission reviews and
 259 approves the rates, fees, and charges and determines they are
 260 just and equitable ~~fixed until after a public hearing at which~~

261 ~~all of the users of the water or sewer systems; owners, tenants,~~
 262 ~~or occupants of property served or to be served thereby; and all~~
 263 ~~others interested shall have an opportunity to be heard~~
 264 ~~concerning the proposed rates, fees, and charges. Any change or~~
 265 ~~revision of such rates, fees, or charges may be made in the same~~
 266 ~~manner as such rates, fees, or charges were originally~~
 267 ~~established, but if such change or revision is to be made~~
 268 ~~substantially pro rata as to all classes of service, both inside~~
 269 ~~and outside the municipality, no hearing or notice shall be~~
 270 ~~required.~~

271 (2) A municipality operating a water or sewer utility in
 272 the unincorporated areas of a county may not impose on
 273 ratepayers in the unincorporated areas of the county a surcharge
 274 greater than 25 percent of the rates, fees, and charges imposed
 275 on ratepayers in the municipality. In addition, the following
 276 shall apply:

277 (a) Effective July 1, 2014, a municipality may not
 278 establish a new surcharge or increase an existing surcharge on
 279 ratepayers in unincorporated areas of a county unless the Public
 280 Service Commission finds that the proceeds of any new surcharge,
 281 or the existing surcharge and any new increase, are dedicated
 282 exclusively to repayment of that portion of bonds issued by the
 283 municipality to finance the facilities that serve the
 284 unincorporated areas. The commission must also determine the
 285 appropriate rate and duration of the surcharge necessary to
 286 accomplish this purpose. However, the total surcharge may not

287 exceed 25 percent of the rates, fees, and charges applied to
 288 ratepayers inside the municipal boundaries.

289 (b) Effective July 1, 2018, a surcharge imposed by a
 290 municipality on or before July 1, 2014, on ratepayers in
 291 unincorporated areas of a county, which surcharge exceeds 15
 292 percent of the rates, fees, and charges applied to ratepayers
 293 inside the municipal boundaries, must be approved by the Public
 294 Service Commission. The commission must find that the proceeds
 295 from the entire surcharge are dedicated exclusively to repayment
 296 of that portion of bonds issued by the municipality to finance
 297 the facilities that serve the unincorporated areas. The
 298 commission shall determine the rate and duration of the
 299 surcharge necessary to accomplish this purpose. However, the
 300 total surcharge may not exceed 25 percent of the rates, fees,
 301 and charges applied to ratepayers inside the municipal
 302 boundaries.

303 (c) A surcharge imposed by a municipality on or before
 304 July 1, 2014, on ratepayers in unincorporated areas of a county
 305 shall expire effective July 1, 2024, and may not be imposed by
 306 the municipality after such date unless approved by the Public
 307 Service Commission. The commission must find that the existing
 308 surcharge are dedicated exclusively to repayment of that portion
 309 of bonds issued by the municipality to finance the facilities
 310 that serve the unincorporated areas. The commission shall
 311 determine the appropriate rate and duration of any surcharge
 312 necessary to accomplish this purpose. However, the total

313 surcharge may not exceed 25 percent of the rates, fees, and
 314 charges applied to ratepayers inside the municipal boundaries. A
 315 municipality whose surcharge is approved by the commission as
 316 set forth in paragraph (b) is deemed to have received commission
 317 approval under this paragraph.

318 (3) A ratepayer in an unincorporated area of a county who
 319 is receiving water or sewer utility services from a municipality
 320 may petition the Public Service Commission for a review of the
 321 rates, fees, or charges being imposed by the municipality. The
 322 Public Service Commission shall accept such petition and
 323 determine whether such rates, fees, and charges are just and
 324 equitable.

325 (4)~~(2)~~ Whenever any municipality has engaged, or there are
 326 reasonable grounds to believe that any municipality is about to
 327 engage, in any act or practice prohibited by subsection (1) or
 328 subsection (2), a civil action for preventive relief, including
 329 an application for a permanent or temporary injunction,
 330 restraining order, or other order, may be instituted by the
 331 person or persons aggrieved.

332 (5)~~(3)~~ This section shall apply to municipally owned water
 333 and sewer utilities within the confines of a single county and
 334 may apply, pursuant to interlocal agreement, to municipally
 335 owned water and sewer utilities beyond the confines of a single
 336 county.

337 (6)~~(4)~~ In any action commenced pursuant to this section,
 338 the court in its discretion may allow the prevailing party

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339 treble damages and, in addition, a reasonable attorney
 340 ~~attorney's~~ fee as part of the cost.

341 Section 5. Subsection (2) of section 367.022, Florida
 342 Statutes, is amended to read:

343 367.022 Exemptions.—The following are not subject to
 344 regulation by the commission as a utility nor are they subject
 345 to the provisions of this chapter, except as expressly provided:

346 (2) Systems owned, operated, managed, or controlled by
 347 governmental authorities, including water or wastewater
 348 facilities operated by private firms under water or wastewater
 349 facility privatization contracts as defined in s. 153.91, and
 350 nonprofit corporations formed for the purpose of acting on
 351 behalf of a political subdivision with respect to a water or
 352 wastewater facility; however, any municipality that provides
 353 water or wastewater utility service, directly or indirectly, in
 354 unincorporated areas of the county is subject to regulation by
 355 the commission as set forth in s. 180.191.

356 Section 6. Subsection (4) of section 367.071, Florida
 357 Statutes, is amended to read:

358 367.071 Sale, assignment, or transfer of certificate of
 359 authorization, facilities, or control.—

360 (4) An application shall be disposed of as provided in s.
 361 367.045, except that:

362 (a) The sale of facilities, in whole or part, to a
 363 governmental authority shall be approved as a matter of right;
 364 however, before taking any official action, the governmental

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365 authority shall, ~~prior to taking any official action,~~ obtain
366 from the utility or commission with respect to the facilities to
367 be sold the most recent available income and expense statement,
368 balance sheet, and statement of rate base for regulatory
369 purposes and contributions-in-aid-of-construction. Any request
370 for rate relief pending before the commission at the time of
371 sale is deemed to have been withdrawn. Interim rates, if
372 previously approved by the commission, must be discontinued, and
373 any money collected pursuant to interim rate relief must be
374 refunded to the customers of the utility with interest.

375 (b) Notwithstanding paragraph (a), approval of the
376 commission is required before a municipality acquires, in whole
377 or in part, the facilities of a utility that will serve
378 ratepayers in unincorporated areas of the county. As part of the
379 approval process, the commission shall review the utility's most
380 recent available income and expense statement, balance sheet,
381 contributions-in-aid-of-construction, rates, classification, and
382 charges for service of every kind provided by the utility. The
383 municipality shall provide its proposed rate structure,
384 including proposed rates, fees, and charges for ratepayers
385 within the municipal boundaries and for ratepayers in
386 unincorporated areas of the county to be served by the
387 municipality. If a municipality, as part of the acquisition,
388 will impose a surcharge on ratepayers in unincorporated areas of
389 the county, the municipality is subject to s. 180.191.

390 (c)-(b) When paragraph (a) does not apply, the commission

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391 shall amend the certificate of authorization as necessary to
392 reflect the change resulting from the sale, assignment, or
393 transfer.

394 Section 7. This act shall take effect July 1, 2014.



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COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

1 Committee/Subcommittee hearing bill: Energy & Utilities
 2 Subcommittee

3 Representative Mayfield offered the following:

4
 5 **Amendment (with title amendment)**

6 Remove everything after the enacting clause and insert:

7 Section 1. This act may be cited as the "Ratepayer
 8 Representation Act."

9 Section 2. Section 153.03, Florida Statutes, is amended to
 10 read:

11 153.03 General grant of power. ~~A county Any of the several~~
 12 ~~counties of the state which may hereafter come under the~~
 13 ~~provisions of this chapter as hereinafter provided is hereby~~
 14 authorized and ~~empowered:~~

15 (1) To purchase or ~~and/or~~ construct and to improve,
 16 extend, enlarge, or ~~and~~ reconstruct a water supply system ~~or~~
 17 ~~systems~~ or sewage disposal system ~~or systems, or both,~~ within



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18 ~~the such~~ county and any adjoining ~~county or~~ counties; and to
19 ~~purchase and/or construct or reconstruct water system~~
20 ~~improvements or sewer improvements, or both, within such county~~
21 ~~and any adjoining county or counties~~ and to operate, manage, and
22 control those ~~all such~~ systems ~~so purchased and/or constructed~~
23 and all properties pertaining thereto; and to furnish and ~~supply~~
24 water and sewage collection and disposal services to any of such
25 counties and to any municipalities and any persons, firms, or
26 corporations, public or private, in any of such counties. ~~+~~
27 ~~provided,~~ However, ~~that~~ none of the facilities described in
28 ~~provided by~~ this chapter may be constructed, owned, operated, or
29 maintained by the county on property located within the
30 corporate limits of a ~~any~~ municipality without the consent of
31 the governing council, ~~commission or body having general~~
32 ~~legislative authority in the government~~ of such municipality
33 unless the such facilities were owned by the county before the
34 ~~on such property prior to the time such~~ property was included
35 within the corporate limits of the such municipality.

36 (a) If a municipality, pursuant to a franchise agreement
37 with a county or by county resolution or ordinance, is
38 authorized to provide water service or sewage collection and
39 disposal services in an unincorporated area of the county, the
40 ~~No~~ county may not shall furnish any of the facilities described
41 in provided by this chapter to that unincorporated area any
42 ~~property already being furnished like facilities by any~~
43 ~~municipality~~ without the express consent of the governing



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44 ~~council, commission or body having general legislative authority~~
45 ~~in the government of that such municipality until the franchise~~
46 ~~agreement, resolution, or ordinance has expired or is no longer~~
47 ~~in effect. If the county thereafter elects to provide water~~
48 ~~service or sewage collection and disposal services to the~~
49 ~~unincorporated area, the county, pursuant to the requirements of~~
50 ~~s. 125.3401, may purchase the facilities owned by the~~
51 ~~municipality that are located in and used to serve the~~
52 ~~unincorporated area. The county must compensate the~~
53 ~~municipality for the fair market value of such facilities.~~

54 (b) If the franchise agreement, resolution, or ordinance
55 contains no term or date after which the municipality's
56 authority expires, the county, pursuant to the requirements of
57 s. 125.3401, may purchase the facilities owned by the
58 municipality that are located in and used to serve the
59 unincorporated area, subject to the following requirements:

60 1. A majority of the ratepayers in the unincorporated
61 area, either by vote in a referendum or written response to a
62 mail survey, have agreed to receive water service or sewage
63 collection and disposal services from the county;

64 2. The county compensates the municipality for the fair
65 market value of the facilities purchased from the municipality
66 to serve the unincorporated area; and

67 3. The purchase does not occur before July 1, 2016.

68 (2) To issue water revenue bonds and/or sewer revenue
69 bonds or general obligation bonds of the county to pay all or a



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70 part of the cost of such purchase and/or construction or
71 reconstruction.

72 (3) To fix and collect rates, fees and other charges for
73 the service and facilities furnished by any such water supply
74 system or water system improvements and sewage disposal system
75 or sewer improvements and to fix and collect charges for making
76 connections with the water system of the county.

77 (4) To receive and accept from the Federal Government or
78 any agency thereof grants for or in aid of the planning,
79 purchase, construction, reconstruction, or financing of any
80 facility and to receive and accept contributions from any source
81 of either money, property, labor, or other things of value to be
82 held, used, and applied only for the purpose for which such
83 grants and contributions may be made.

84 (5) To acquire in the name of the county by gift, purchase
85 as hereinafter provided or by the exercise of the right of
86 eminent domain, such lands and rights and interests therein,
87 including lands under water and riparian rights, and to acquire
88 such personal property as it may deem necessary for the
89 efficient operation or for the extension of or the improvement
90 of any facility purchased or constructed under the provisions of
91 this chapter and to hold and dispose of all real and personal
92 property under its control; provided, however, that no county
93 shall have the right to exercise the right of eminent domain
94 over any such lands or rights or interests therein or any
95 personal property owned by any municipality within the state nor



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96 to exercise such right with respect to any privately owned water
97 supply system or sewage disposal system including without
98 limitation ponds, streams and surface waters constituting a part
99 thereof, provided any such system is primarily used, owned or
100 operated by an industrial or manufacturing plant for its own use
101 as a water supply system or in disposing of its industrial
102 wastes.

103 (6) To make and enter into all contracts and agreements
104 necessary or incidental to the performance of its duties and the
105 execution of its powers under this chapter and to employ such
106 consulting and other engineers, superintendents, managers,
107 construction and accounting experts and attorneys and such other
108 employees and agents as it may deem necessary in its judgment
109 and to fix their compensation.

110 (7) Subject to the provisions and restrictions as may be
111 set forth in the resolution hereinafter mentioned authorizing or
112 securing any bonds issued under the provisions of this chapter
113 to enter into contracts with the government of the United States
114 or any agency or instrumentality thereof or with any other
115 county or with any municipality, private corporation,
116 copartnership, association, or individual providing for or
117 relating to the acquisition and supplying of water and the
118 collection, treatment and disposal of sewage.

119 (8) To acquire by gift or purchase at a price to be
120 mutually agreed upon, any of the facilities or portions thereof,
121 provided for by this chapter, which shall, prior to such



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122 acquisition, have been owned by any private person, group, firm,
123 partnership, association or corporation; provided, however, if
124 the price for same cannot be agreed upon, the price shall be
125 determined by an arbitration board consisting of three persons,
126 one of whom shall be selected by the board of county
127 commissioners, one shall be appointed by the private company or
128 corporation, and the two persons so selected shall select a
129 third member of said board; and provided, further, that in the
130 event said board cannot agree as to the price to be paid by the
131 said board of county commissioners, then the board of county
132 commissioners shall exercise the right of eminent domain.

133 (9) To enter into agreements and contracts with building
134 contractors erecting improvements within any duly platted
135 subdivision within the county, the terms of which said
136 agreements or contracts may provide that such building
137 contractors shall install within such subdivision water mains,
138 lines and equipment and sewer mains and lines, to be approved by
139 the county commission, said mains and lines to run to a point or
140 location to be agreed upon, at which said point or location said
141 mains and lines shall be connected to the water supply system or
142 water system improvements and/or to the sewage disposal system
143 or sewer improvements of the county. In the event such
144 agreements or contracts are entered into they shall provide that
145 upon the connection of the mains or lines within the subdivision
146 to the water or sewer facilities of the county said mains, lines
147 and equipment running to the various privately owned parcels of



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148 land within such subdivision shall become the property of the
149 county and shall become a part of the county water system
150 improvements and/or sewer improvements.

151 (10) To restrain, enjoin or otherwise prevent any person
152 or corporation, public or private, from contaminating or
153 polluting (as defined in s. 387.08) any source of water supply
154 from which is obtained water for human consumption to be used in
155 any water supply system or water system improvement as
156 authorized by this chapter, and to restrain, enjoin or otherwise
157 prevent the violation of any provision of this chapter or any
158 resolution, rule or regulation adopted pursuant to the powers
159 granted by this chapter; provided, however, that this chapter
160 shall not apply to or affect any existing contract that a
161 municipality may have for water or sewage disposal without the
162 consent of both parties to said contract but this subsection
163 shall not authorize the institution or prosecution of any
164 proceeding hereunder nor the adoption of any resolution, rule or
165 regulation which shall in anywise affect the right of any
166 industrial or manufacturing plant to discharge industrial waste
167 into any nonnavigable or navigable waters unless such waters are
168 now being used or are hereafter used hereunder as a source of
169 water for human consumption and unless the industrial wastes of
170 any such plant are not being discharged into such waters prior
171 to the time that action is taken by the commission under this
172 chapter to include such water as a part of any water supply
173 system.



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174 (11) To acquire by gift or purchase, at such price, and
175 upon such deferred or other terms, as may be mutually agreed
176 upon, all the capital stock of any domestic or foreign
177 corporation which, prior to such acquisition, shall have owned
178 or operated any of the facilities or portions thereof provided
179 for by this chapter; to pledge the revenues from the facilities
180 as security for payment of the purchase price for said stock;
181 and to operate the facilities through the corporation so
182 acquired or to dissolve said corporation and operate the
183 facilities in any other manner authorized by law.

184 Section 3. Subsection (2) of section 180.02, Florida
185 Statutes, is amended to read:

186 180.02 Powers of municipalities.-

187 (2) A ~~Any~~ municipality may extend and execute all of its
188 applicable corporate powers to accomplish ~~applicable for the~~
189 ~~accomplishment of~~ the purposes of this chapter outside of its
190 corporate limits, ~~as hereinafter provided and~~ as may be
191 desirable or necessary to promote ~~for the promotion of~~ the
192 public health, safety, and welfare or to accomplish ~~for the~~
193 ~~accomplishment of~~ the purposes of this chapter; ~~provided,~~
194 However, such that ~~said~~ corporate powers do ~~shall~~ not extend or
195 apply within the corporate limits of another municipality.
196 Further, any applicable corporate power does not extend or apply
197 within an unincorporated area in which that power has not been
198 executed prior to July 1, 2014, or within an unincorporated area
199 in which a county has exercised its authority to provide water



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200 service or sewage collection and disposal services pursuant to
201 s. 153.03(1)(a) or (b), without the express consent of a
202 majority of the commissioners at a duly noticed meeting of the
203 board of county commissioners of that county.

204 Section 4. Section 180.191, Florida Statutes, is amended
205 to read:

206 180.191 Limitation on rates charged consumer outside city
207 limits.-

208 (1) Any municipality within the state operating a water or
209 sewer utility outside of the boundaries of such municipality
210 shall charge consumers outside the boundaries rates, fees, and
211 charges determined in one of the following manners:

212 (a) It may charge the same rates, fees, and charges as
213 consumers inside the municipal boundaries. However, in addition
214 thereto, the municipality may add a surcharge of not more than
215 25 percent of such rates, fees, and charges to consumers outside
216 the boundaries. Fixing of such rates, fees, and charges in this
217 manner shall not require a public hearing except as may be
218 provided for service to consumers inside the municipality.

219 (b) It may charge rates, fees, and charges that are just
220 and equitable and which are based on the same factors used in
221 fixing the rates, fees, and charges for consumers inside the
222 municipal boundaries. In addition thereto, the municipality may
223 add a surcharge ~~not to exceed 25 percent of such rates, fees,~~
224 ~~and charges~~ for said services to consumers outside the
225 boundaries. However, the total of all such rates, fees, and



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226 charges for the services to consumers outside the boundaries
227 shall not be more than 25 ~~50~~ percent greater than ~~in excess of~~
228 the total amount the municipality charges consumers served
229 within the municipality for corresponding service. No such
230 rates, fees, and charges shall be fixed until after a public
231 hearing at which all of the users of the water or sewer systems;
232 owners, tenants, or occupants of property served or to be served
233 thereby; and all others interested shall have an opportunity to
234 be heard concerning the proposed rates, fees, and charges. Any
235 change or revision of such rates, fees, or charges may be made
236 in the same manner as such rates, fees, or charges were
237 originally established, but if such change or revision is to be
238 made substantially pro rata as to all classes of service, both
239 inside and outside the municipality, no hearing or notice shall
240 be required.

241 (c) The amount of any surcharge imposed pursuant to this
242 subsection must be clearly stated as a separate line item on the
243 bill of each customer to which the surcharge is applied.

244 (2) A ratepayer in an unincorporated area of a county who
245 is receiving water or sewer utility services from a municipality
246 may petition the Public Service Commission or, if the
247 municipality is located in a county that has elected to regulate
248 water and sewer utilities pursuant to chapter 367, may petition
249 the county for a review of the rates, fees, or charges being
250 imposed by the municipality. The Public Service Commission or
251 the county, as applicable, shall accept such petition and



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252 determine whether such rates, fees, and charges are just and
253 equitable.

254 ~~(3)-(2)~~ Whenever any municipality has engaged, or there are
255 reasonable grounds to believe that any municipality is about to
256 engage, in any act or practice prohibited by subsection (1), a
257 civil action for preventive relief, including an application for
258 a permanent or temporary injunction, restraining order, or other
259 order, may be instituted by the person or persons aggrieved.

260 ~~(4)-(3)~~ This section shall apply to municipally owned water
261 and sewer utilities within the confines of a single county and
262 may apply, pursuant to interlocal agreement, to municipally
263 owned water and sewer utilities beyond the confines of a single
264 county.

265 ~~(5)-(4)~~ In any action commenced pursuant to this section,
266 the court in its discretion may allow the prevailing party
267 treble damages and, in addition, a reasonable attorney
268 ~~attorney's~~ fee as part of the cost.

269 Section 5. Subsection (4) of section 367.071, Florida
270 Statutes, is amended to read:

271 367.071 Sale, assignment, or transfer of certificate of
272 authorization, facilities, or control.-

273 (4) An application shall be disposed of as provided in s.
274 367.045, except that:

275 (a) The sale of facilities, in whole or part, to a
276 governmental authority shall be approved as a matter of right;
277 however, before taking any official action, the governmental



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278 authority shall, ~~prior to taking any official action,~~ obtain
279 from the utility or commission with respect to the facilities to
280 be sold the most recent available income and expense statement,
281 balance sheet, and statement of rate base for regulatory
282 purposes and contributions-in-aid-of-construction. Any request
283 for rate relief pending before the commission at the time of
284 sale is deemed to have been withdrawn. Interim rates, if
285 previously approved by the commission, must be discontinued, and
286 any money collected pursuant to interim rate relief must be
287 refunded to the customers of the utility with interest.

288 (b) Notwithstanding paragraph (a), approval of the
289 commission is required before a municipality acquires, in whole
290 or in part, the facilities of a utility that will be used to
291 serve ratepayers in the unincorporated area of a county. If the
292 municipality is located in a county that has elected to regulate
293 water and sewer utilities pursuant to chapter 367, approval of
294 the county is required. The municipality shall provide, for
295 review by the commission or county, as applicable, its proposed
296 rate structure, including proposed rates, fees, and charges for
297 ratepayers within the municipal boundaries and for ratepayers in
298 the unincorporated area of the county to be served by the
299 municipality. The commission or county, as applicable, shall
300 approve the transfer on the following conditions:

301 1. The municipality has obtained from the utility or
302 commission, with respect to the facilities to be sold, the most
303 recent available income and expense statement, balance sheet,



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304 and statement of rate base for regulatory purposes and
305 contributions-in-aid-of-construction;

306 2. The purchase price in excess of rate base is reflective
307 of all cost savings as a result of the transfer;

308 3. The transfer will result in improved quality of
309 service;

310 4. The transfer will achieve lower operating costs;

311 5. The transfer will result in an increased ability to
312 attract capital; and

313 6. The transfer will result in more professional and
314 experienced managerial, financial, technical, and operational
315 resources.

316 (c)-(b) When paragraph (a) does not apply, the commission
317 shall amend the certificate of authorization as necessary to
318 reflect the change resulting from the sale, assignment, or
319 transfer.

320 Section 6. This act shall take effect July 1, 2014.

321

322

323

324

T I T L E A M E N D M E N T

325

Remove everything before the enacting clause and insert:

326

An act relating to water and wastewater utilities; providing a

327

short title; amending s. 153.03, F.S.; prohibiting a county from

328

providing water or sewer services in unincorporated areas

329

covered by an agreement with a municipality to provide such



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330 services in such unincorporated areas; authorizing the county to
331 provide water and sewer services upon expiration of an agreement
332 under certain circumstances; authorizing the county to provide
333 water and sewer services in certain circumstances when the
334 agreement does not contain an expiration date; amending s.
335 180.02, F.S.; specifying limits on application and extension of
336 a municipality's corporate powers in unincorporated areas of a
337 county in certain circumstances without the county's express
338 consent; amending s. 180.191, F.S.; limiting the amount of water
339 and sewer utility rates, fees, and charges that a municipality
340 may impose on consumers outside of the municipality's
341 boundaries; requiring billing disclosure of surcharges imposed
342 on consumers outside of the municipality's boundaries;
343 authorizing ratepayers in unincorporated areas to petition the
344 commission or county for determination whether rates, fees, and
345 charges imposed by a municipality are just and equitable;
346 amending s. 367.071, F.S.; requiring and establishing conditions
347 for commission or county approval before a municipality may
348 purchase certain water or wastewater facilities; providing an
349 effective date.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 4017 Cable and Video Services
SPONSOR(S): Rodrigues
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Energy & Utilities Subcommittee		Whittier <i>MD</i>	Keating <i>CK</i>
2) Regulatory Affairs Committee			

SUMMARY ANALYSIS

In 2007, the Legislature created s. 610.119, F.S., which required the Office of Program Policy Analysis and Governmental Accountability (OPPAGA) to submit reports on the status of competition in the cable and video service industry by December 1, 2009, and December 1, 2014, to the President of the Senate, the Speaker of the House of Representatives, and the majority and minority leaders of the Senate and House of Representatives. The report was to include, by each municipality and county, the number of cable and video service providers, the number of cable and video subscribers served, the number of areas served by fewer than two cable or video service providers, the trend in cable and video service prices, and the identification of any patterns of service as they impacted demographic and income groups.

In October 2009, OPPAGA submitted the first report, which noted that two barriers prevented a comprehensive assessment of the effect of cable or video service provider franchises on competition for cable and video services: provider reluctance to share data and insufficient information provided in statewide franchise documents.

HB 4017 repeals the requirement that OPPAGA submit reports on the status of competition in the cable and video industry. The bill effectively eliminates the requirement that OPPAGA complete and submit the report otherwise due this year.

There appears to be no fiscal impact on state or local governments.

The bill takes effect July 1, 2014.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

In 2007, the Legislature designated the Department of State as the authority that issues statewide cable and video franchises. Local governmental authority to negotiate cable service franchises was removed. At that time, s. 610.119, F.S., was created to require the Office of Program Policy Analysis and Governmental Accountability (OPPAGA) to submit reports on the status of competition in the cable and video service industry by December 1, 2009, and December 1, 2014, to the President of the Senate, the Speaker of the House of Representatives, and the majority and minority leaders of the Senate and House of Representatives.

The report was to include, by each municipality and county, the following:

- The number of cable and video service providers,
- The number of cable and video subscribers served,
- The number of areas served by fewer than two cable or video service providers,
- The trend in cable and video service prices, and
- The identification of any patterns of service as they impacted demographic and income groups.

OPPAGA issued its first report in October 2009.¹ The summary of the report states:

The 2007 Consumer Choice Act provided for a statewide franchise for cable and video service providers and ended local government authority to negotiate franchise agreements. Several departments — State, Agriculture and Consumer Services, and Legal Affairs — have responsibilities related to the new law but none has regulatory authority. As many as 20 states also passed statewide franchise laws in recent years. However, little systematic information exists to demonstrate the effect of these laws.²

Since 2007, the Department of State has issued 26 state franchise certificates; most certificates were issued to existing cable or video service providers. However, two barriers prevent a comprehensive assessment of the effect of these franchises on competition for cable and video services: provider reluctance to share data and insufficient information provided in statewide franchise documents. In light of these difficulties, the Legislature may wish to consider amending s. 610.119(1), Florida Statutes, to modify study requirements or make changes that might lessen the industry concerns regarding a required December 2014 follow-up study on cable and video services competition.³

As required by federal law, the Federal Communications Commission prepares and publishes an annual report concerning the status of competition in the market for delivery of video programming.⁴ The report is intended to measure progress toward the goals of increasing competition and diversity in multichannel video programming distribution, increasing the availability of satellite delivered programming, and spurring the development of communications technologies.⁵ Among other things,

¹ Office of Program Policy Analysis & Governmental Accountability, *Benefits from Statewide Cable and Video Franchise Reform Remain Uncertain*, Report No. 09-35, October 2009.

² *Id.*, p. 1.

³ *Id.*

⁴ 47 U.S.C. s. 548(g)

⁵ See *Fifteenth Report*, Federal Communications Commission, released July 22, 2013, in MB Docket No. 12-03, In the Matter of Annual Assessment of the Status of Competition in the Market for the Delivery of Video Programming.

the report addresses the number of service subscribers and market share among various market segments and participants, including a comparison of competition in rural versus urban areas.⁶ The report also addresses programming and consumer behavior patterns.

Effect of Proposed Changes

The bill repeals s. 610.119(1), F.S., which removes from statute the requirement that OPPAGA submit reports, the latter of which is due by December 1, 2014, on the status of competition in the cable and video industry.

B. SECTION DIRECTORY:

Section 1. Amends s. 610.119, F.S., removing provisions directing the Office of Program Policy Analysis and Government Accountability to submit a report to the Legislature on the status of competition in the cable and video service industry.

Section 2. Provides an effective date of July 1, 2014.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditures of funds; reduce the authority that counties or municipalities have

⁶ *Id.* at 157.

to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

Not applicable.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Section 610.119(2), F.S., requiring the Department of Agriculture and Consumer Services to make recommendations by January 15, 2008, to specified recipients is obsolete and can also be repealed.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

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A bill to be entitled
 An act relating to cable and video services; amending
 s. 610.119, F.S.; removing provisions directing the
 Office of Program Policy Analysis and Government
 Accountability to submit a report to the Legislature
 on the status of competition in the cable and video
 service industry; providing an effective date.
 Be It Enacted by the Legislature of the State of Florida:



Section 1. Subsection (1) of section 610.119, Florida
 Statutes, is amended to read:

610.119 Report ~~Reports~~ to the Legislature.—
~~(1) The Office of Program Policy Analysis and Government
 Accountability shall submit to the President of the Senate, the
 Speaker of the House of Representatives, and the majority and
 minority leaders of the Senate and House of Representatives, by
 December 1, 2009, and December 1, 2014, a report on the status
 of competition in the cable and video service industry,
 including, by each municipality and county, the number of cable
 and video service providers, the number of cable and video
 subscribers served, the number of areas served by fewer than two
 cable or video service providers, the trend in cable and video
 service prices, and the identification of any patterns of
 service as they impact demographic and income groups.~~

Section 2. This act shall take effect July 1, 2014.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB EUS 14-01 Department of Agriculture & Consumer Services
SPONSOR(S): Energy & Utilities Subcommittee
TIED BILLS: IDEN./SIM. **BILLS:** CS/SB 1044

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Energy & Utilities Subcommittee		Whittier 	Keating 

SUMMARY ANALYSIS

PCB EUS 14-01 addresses the duties and responsibilities of the Department of Agriculture and Consumer Services (department) with respect to energy issues. Specifically, the bill does the following:

- Authorizes the Commissioner of Agriculture to appoint a representative to the Southern States Energy Board;
- Adds a representative of the department to the Florida Building Commission;
- Clarifies that the department must promote all forms of renewable energy, not simply solar;
- Clarifies that the department must promote and provide reports and recommendations on both energy conservation and efficiency measures;
- Authorizes the department to work in cooperation with the Florida Energy Systems Consortium;
- Authorizes the department to post information on alternative fueling stations and electric vehicle charging stations on the department's website;
- Repeals the expired Solar Energy Systems Incentive Program and related cross-references;
- Repeals the expired Florida Energy Star Residential HVAC Rebate Program and related cross-references;

The bill does not appear to have a fiscal impact on state or local governments.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Southern States Energy Board (Sections 1 and 3)

Present Situation

The Southern States Energy Board (SSEB or Board) is a non-profit interstate compact organization created by state law in 1960 and consented to by Congress¹ with a broad mandate to contribute to the economic and community well-being of the southern region.² Its mission is "to enhance economic development and the quality of life in the South through innovations in energy and environmental policies, programs and technologies."³

Sixteen southern states and two territories comprise the board: Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Maryland, Mississippi, Missouri, North Carolina, Oklahoma, Puerto Rico, South Carolina, Tennessee, Texas, U.S. Virgin Islands, Virginia, and West Virginia. Each jurisdiction is represented by the Governor and a Legislator from the House and Senate. A Governor serves as the chair and legislators serve as vice-chair and treasurer. Ex-officio non-voting Board members include a federal representative appointed by the President of the United States, the Southern Legislative Conference Energy and Environment Committee Chair, and the Board's executive director, who serves as secretary.⁴

According to the Board's website, the SSEB pursues its mission through the creation of programs in the fields of energy and environmental policy research, development and implementation, science and technology exploration, and related areas of concern. The SSEB "serves its members directly by providing timely assistance designed to develop effective energy and environmental policies and programs and represents its members before governmental agencies at all levels."⁵

According to its website, the Board's long-term goals are the following:

- Perform essential services that provide direct scientific and technical assistance to state governments;
- Develop, promote, and recommend policies and programs on energy, environment, and economic development that encourage sustainable development;
- Provide technical assistance to executive and legislative policy-makers and the private sector in order to achieve synthesis of energy, environment, and economic issues that ensure energy security and supply;
- Facilitate the implementation of energy and environmental policies between federal, state, and local governments and the private sector;
- Sustain business development throughout the region by eliminating barriers to the use of efficient energy and environmental technologies; and
- Support improved energy efficient technologies that pollute less and contribute to a clean global environment while protecting indigenous natural resources for future generations.⁶

¹ Public Laws 87-563 and 92-440.

² Southern States Energy Board website found at <http://www.sseb.org/about/> (last visited on March 16, 2014).

³ *Id.*

⁴ *Id.*

⁵ *Id.*

⁶ *Id.*

According to the Board's website, core funding is comprised of appropriations from its 18 member jurisdictions, and each member's share of support is determined by a formula written into the original Southern States Energy Compact (Compact). The formula uses relative state population, per capita, income and equal shares as factors. The Board has not requested an increase in state appropriations since 1987.⁷

Section 377.711, F.S., establishes Florida as a member of the Compact. Section 377.712, F.S., provides for Florida's participation on the SSEB, by requiring the Governor, the President of the Senate, and the Speaker of the House of Representatives to each appoint one member to the SSEB.⁸ The section also authorizes departments, agencies, and officers of the state and its subdivisions to cooperate with the SSEB if the activities have been approved by either the Governor or the Florida Department of Health.

Effect of Proposed Changes

The bill gives authority to the Commissioner of Agriculture to serve as a member of the Southern States Energy Board or to appoint a deputy or assistant from the department to serve. (This authority replaces existing language, removed in the bill, which authorized the Department of Agriculture and Consumer Services to represent Florida in the Southern States Energy Compact). This change provides greater consistency with the provisions of s. 377.712, F.S., which specify Florida's participation in the SSEB. The bill also replaces reference to the Department of Health with reference to the Department of Agriculture and Consumer Services.

Office of Energy (Section 2)

Present Situation

In response to the energy crisis in the 1970s, the State Energy Office was established by the Legislature in 1975.⁹ Prior to becoming a part of the Department of Agriculture and Consumer Services, it has been housed in the Department of Administration, the Department of Community Affairs, the Department of Environmental Protection, and the Executive Office of the Governor. In 2006, the Legislature established the Florida Energy Commission, as an arm of the Legislature, to develop recommendations for legislation to establish a state energy policy.¹⁰

During the 2007 Legislative Session, the issue of fragmentation of energy policy governance was raised. At that time, there were many public sector entities playing a role in developing, implementing, or coordinating some aspect of Florida's energy policies: the Florida Energy Office within the Department of Environmental Protection; the Department of Community Affairs; the Florida Building Commission; the Department of Agriculture and Consumer Services; the Department of Management Services; the Department of Financial Services; the Public Service Commission; the Florida Energy Commission; and a host of colleges and universities.

In 2008,¹¹ the Legislature established the Florida Energy and Climate Commission (Commission or FECC) as the state entity responsible for recommending, implementing, and coordinating Florida's energy policy and for coordinating all federal energy programs delegated to the state. The measure, in effect, merged the Department of Environmental Protection's Florida Energy Office with the Legislature's Florida Energy Commission and administratively placed the new entity within the

⁷ *Id.*

⁸ Currently, the Florida members are Governor Rick Scott, Senator Anitere Flores, and Representative Jose Felix Diaz.

⁹ Chapter 75-256, L.O.F.

¹⁰ Former s. 377.901(5), F.S.

¹¹ Section 46, ch. 2008-227, L.O.F.

Executive Office of the Governor. In 2009, the Senate failed to confirm the membership of the Commission.

In 2011,¹² the Legislature abolished the Florida Energy and Climate Commission and transferred all of its powers, duties, functions, records, personnel, and property; unexpended balances of appropriations, allocations, and other funds; administrative authority; administrative rules; pending issues; and existing contracts from the Executive Office of the Governor to the Office of Energy (Office) within the Department of Agriculture and Consumer Services.

Among its responsibilities, the Office of Energy administers tax incentive programs, administers the provisions of the Florida Energy and Climate Protection Act, works cooperatively with other state entities regarding energy-related matters, and provides energy policy recommendations to the Legislature.

The department provides an annual report to the Governor and the Legislature reflecting its activities and its policy recommendations. The report must include a report from the Public Service Commission addressing, among other things, ongoing energy conservation programs and must include recommendations for energy conservation programs in the state. Further, the department must promote energy conservation in all energy use sectors throughout the state.¹³

The terms “energy conservation” and “energy efficiency” are often used interchangeably, but have distinct meanings. Energy conservation is generally defined as reduction in total levels of energy consumption.¹⁴ An example is lowering the thermostat. Energy efficiency is generally defined as achieving more services from the same energy input or the same services from less energy input.¹⁵ An example is replacing an incandescent light bulb with an LED light bulb. Programs addressed by the PSC include both energy conservation and energy efficiency measures.

The department must also promote the development and use of renewable energy resources. Current law requires it to do so by: establishing goals and strategies for increasing the use of solar energy in the state; aiding and promoting the commercialization of solar energy technology; identifying barriers to greater use of solar energy systems in this state; and investigating opportunities for solar electric vehicles and other solar energy manufacturing, distribution, installation, and financing efforts which will enhance Florida’s position as a leader in solar energy research, development, and use.¹⁶

The Florida Energy Systems Consortium (consortium or FESC) promotes collaboration among experts in the State University System for the purposes of sharing energy-related expertise and assisting in the development and implementation of a comprehensive, long-term, environmentally compatible, sustainable, and efficient energy strategic plan for the state. The consortium is to focus on the research and development of innovative energy systems that will lead to alternative energy strategies, improved energy efficiencies, and expanded economic development for the state.¹⁷ The consortium consists of all of the state universities and is administered at the University of Florida by a director appointed by the President of the University of Florida. The director reports to the Department of Agriculture and Consumer Services.¹⁸

¹² Chapter 2011-142, L.O.F.

¹³ Section 377.703(2)(f) and (i), F.S.

¹⁴ *Florida’s Electric Utilities: A Reference Guide*, Revised 1994 Edition, p. 35.

¹⁵ See <http://www.iea.org/topics/energyefficiency/>

¹⁶ Section 377.703(2)(h), F.S.

¹⁷ Section 1004.648, F.S.

¹⁸ *Id.*

Effect of Proposed Changes

For decades, the state has promoted attainment of energy conservation and energy efficiency. The bill clarifies that the duties of the department include making recommendations, collecting and disseminating information, and developing and conducting educational and training programs regarding energy efficiency in addition to conservation. The bill captures both “energy conservation” and “energy efficiency” programs to reflect the broad array of programs addressed by the PSC and clarifies that the department’s recommendations and promotional efforts must address both. The bill clarifies that the department’s efforts to promote renewable energy resources not be limited to solar energy technologies, but include all renewable resources.

The bill adds the Florida Energy Systems Consortium to the list of entities that the Office of Energy is to work with in cooperation.

Solar Energy Systems Incentive Program and Florida Energy Star Residential HVAC Rebate Program (Sections 4, 5, 6, 9, and 10)

The Legislature created the Solar Energy System Incentives Program (Solar Rebate Program or program) in 2006 to encourage homeowners and businesses to purchase and install solar energy systems. Rebates ranged from \$100 for solar pool heaters to up to \$100,000 for solar energy systems for businesses. Systems installed from July 1, 2006, to June 30, 2010, were eligible for limited rebates on the purchase and installation costs, subject to legislative appropriation.

Starting in 2006, the Legislature appropriated over \$25 million,¹⁹ over the course of the program, in funding for the Solar Rebate Program. However, the program proved more popular than anticipated and funds were depleted. A backlog of over \$52 million in unpaid rebate applications had accumulated as of October 2010.

In August 2010, the Florida Energy and Climate Commission (FECC) created the Florida Energy Star Residential HVAC Rebate Program (HVAC Rebate Program) in accordance with s. 377.807, F.S. The program was intended to provide \$1,500 rebates for the purchase and installation of eligible HVAC systems and was to commence August 30, 2010, and terminate on December 31, 2010, or when funds were depleted. The FECC announced the program in August 2010 without having authorized funding. The FECC sought funding through the Legislative Budget Commission (LBC); however, as the funding transfer request was not lawfully permissible no action was taken by the LBC. Consequently, the FECC suspended the program and announced that all applications were pending legislative action.²⁰

In November 2010, during Special Session A, the Legislature passed HB 15-A which provided for payment of HVAC rebates and provided that any remaining funds, after processing payment of all approved HVAC rebates, be used to proportionally pay all approved, but unpaid, rebate applications in the Solar Rebate Program backlog. After the funds were exhausted, both programs were closed. New installations and purchases have not been eligible for rebates under those programs since 2010.

¹⁹ The Legislature provided the following funding for the program:

- FY 2006-07 \$2.5 million in General Revenue;
- FY 2007-08 \$3.5 million in General Revenue;
- FY 2008-09 \$5.0 million in General Revenue; and
- FY 2009-10 \$14.4 million in federal ARRA 2009 funds

²⁰ House Staff Analysis for HB 15-A (November 16, 2010) (on file with the Energy & Utilities Subcommittee).

Effect of Proposed Changes

The Solar Energy System Incentives Program and the Florida Energy Star Residential HVAC Rebate Program are no longer in existence and all of the qualified applicants have received a rebate. The bill removes the expired programs and their associated definitions and cross-references from the statutes.

Alternative Fueling Stations and Electric Vehicle Charging Stations (Section 7)

Present Situation

Over the last decade, the state has adopted incentives for alternative-fuel vehicles. Most recently, in 2013, the Legislature created a program for natural gas fuel fleet conversions that began January 1, 2014. Administered by the Department of Agriculture and Consumer Services, the state offers a rebate for up to 50 percent of the eligible costs of a natural gas fuel fleet vehicle or bi-fuel operating system placed into service on or after July 1, 2013.²¹ An applicant is eligible to receive a maximum rebate of \$25,000 per vehicle up to a total of \$250,000 per applicant per fiscal year, on a first-come, first-served basis.

Electric Vehicles (EVs) are becoming more commercially viable due to tax credits, the introduction of gasoline-electric hybrid technology, and improved batteries. As the technology becomes more established, EVs may become a more realistic alternative to gasoline and diesel-fueled vehicles.²²

Estimates of the number of EVs in Florida, as provided by utilities and other organizations, ranged from approximately 1,000 to 6,000 in 2012²³ and are assumed to be higher in 2014. Because no agency tracks these figures formally, it is difficult to pinpoint the number more precisely, and future projections are even more speculative. The number of installed EV charging stations in the state is currently estimated at more than 400.²⁴

Currently, there are alternative fuel and EV charging station locators available online, such as <http://floridagas.org/ForVehicles/FuelStationMap.aspx> and <http://www.afdc.energy.gov/locator/stations>, however, no source appears to provide a truly exhaustive list of alternative fuel or public charging stations.²⁵

Effect of Proposed Changes

The bill creates s. 377.815, F.S., which authorizes the Department of Agriculture and Consumer Services to post, on its website, information relating to alternative fueling stations and electric vehicle charging stations.

It defines the term "alternative fuel" to mean "nontraditional transportation fuel, such as pure methanol, ethanol, and other alcohols; blends of 85 percent or more of alcohol with gasoline; natural gas and liquid fuels domestically produced from natural gas; liquefied petroleum gas; coal-derived liquid fuels; hydrogen; electricity; pure biodiesel; fuels, other than alcohol, derived from biological materials; and P-series fuels."

²¹ Ch. 2013-198, L.O.F

²² Florida Public Service Commission, *Report on Electric Vehicle Charging*, p. 1 (December 2012).

²³ *Id.*

²⁴ Department of Agriculture and Consumer Services, Office of Energy, website:

<http://www.freshfromflorida.com/Energy/Electric-Vehicle-Charging-Stations-Infrastructure> (last viewed on March 17, 2014).

²⁵ *Id.*

Specifically, the bill provides that an owner or operator of an alternative fueling station that is available in Florida may report any of the following information to the department (to be posted on the department's website):

- The type of alternative fuel available;
- The station's name, address, or location; or
- The fees or costs associated with the alternative fuel that is available for purchase.

The owner or operator of an electric vehicle charging station that is available in Florida may report any of the following information to the department (to be posted on the department's website):

- The station's name, address, or location; or
- The fees or costs, if any, associated with the electric vehicle charging services provided by the station.

Florida Building Commission (Section 8)

Present Situation

The Florida Building Commission (ss. 553.74 - 553.77, F.S.) is a 26-member technical body responsible for the development, maintenance, and interpretation of the Florida Building Code. The Commission also approves products for statewide acceptance and administers the Building Code Training Program. Members are appointed by the Governor and confirmed by the Senate and include the following design professionals, contractors, and government experts in the various disciplines covered by the code:

- One architect registered to practice in this state and actively engaged in the profession.
- One structural engineer registered to practice in this state and actively engaged in the profession.
- One air-conditioning or mechanical contractor certified to do business in this state and actively engaged in the profession.
- One electrical contractor certified to do business in this state and actively engaged in the profession.
- One member from fire protection engineering or technology who is actively engaged in the profession.
- One general contractor certified to do business in this state and actively engaged in the profession.
- One plumbing contractor licensed to do business in this state and actively engaged in the profession.
- One roofing or sheet metal contractor certified to do business in this state and actively engaged in the profession.
- One residential contractor licensed to do business in this state and actively engaged in the profession.
- Three members who are municipal or district codes enforcement officials, one of whom is also a fire official.
- One member who represents the Department of Financial Services.
- One member who is a county codes enforcement official.
- One member of a Florida-based organization of persons with disabilities or a nationally chartered organization of persons with disabilities with chapters in this state.
- One member of the manufactured buildings industry who is licensed to do business in this state and is actively engaged in the industry.
- One mechanical or electrical engineer registered to practice in this state and actively engaged in the profession.

- One member who is a representative of a municipality or a charter county.
- One member of the building products manufacturing industry who is authorized to do business in this state and is actively engaged in the industry.
- One member who is a representative of the building owners and managers industry who is actively engaged in commercial building ownership or management.
- One member who is a representative of the insurance industry.
- One member who is a representative of public education.
- One member who is a swimming pool contractor licensed to do business in this state and actively engaged in the profession.
- One member who is a representative of the green building industry and who is a third-party commission agent, a Florida board member of the United States Green Building Council or Green Building Initiative, a professional who is accredited under the International Green Construction Code (IGCC), or a professional who is accredited under Leadership in Energy and Environmental Design (LEED).
- One member who is a representative of a natural gas distribution system and who is actively engaged in the distribution of natural gas in this state.
- One member who shall be the chair.

The Department of Agriculture and Consumer Services, under the Florida Energy Efficiency and Conservation Act, is required, among other duties, to be a party in the proceedings to adopt energy efficiency and conservation goals and is to file with the Public Service Commission comments on those proposed goals,²⁶ including an analysis of the impact of state and local building codes and appliance efficiency standards on the need for utility-sponsored conservation and energy efficiency measures and programs.²⁷

Effect of Proposed Changes

The bill adds a representative of the Department of Agriculture and Consumer Services to the Florida Building Commission. The bill specifies that this representative be appointed from a list of three nominees provided by the Commissioner of Agriculture. If the Governor refuses to appoint a nominee from this list, the Governor must inform the commissioner within 60 days of receipt of the list, and the commissioner must submit a new list of three nominees.

B. SECTION DIRECTORY:

Section 1. Amends s. 377.6015, F.S., removing the power of the Department of Agricultural and Consumer Services to represent the state in the Southern States Energy Compact.

Section 2. Amends s. 377.703, F.S., expanding the promotion of the development and use of renewable energy resources from goals related to solar energy to renewable energy in general.

Section 3. Amends s. 377.712, F.S., authorizing the Commissioner of Agriculture to appoint a member to the Southern States Energy Board.

Section 4. Amends s. 377.801, F.S., conforming a cross-reference.

Section 5. Amends s. 377.802, F.S., revising the purpose of the Florida Energy and Climate Protection Act.

²⁶ In accordance with s. 366.82(2), F.S., the Public Service Commission shall adopt appropriate goals for increasing the efficiency of energy consumption and increasing the development of demand-side renewable energy systems, specifically including goals designed to increase the conservation of expensive resources, such as petroleum fuels, to reduce and control the growth rates of electric consumption, to reduce the growth rates of weather-sensitive peak demand, and to encourage development of demand-side renewable energy resources.

²⁷ Section 366.82(5) F.S.

Section 6. Amends s. 377.803, F.S., conforming provisions to changes made by the Act.

Section 7. Creates s. 377.815, F.S., authorizing the Department of Agriculture and Consumer Services to post on its website information relating to alternative fueling stations or electric vehicle charging stations and defining the term "alternative fuel."

Section 8. Amends s. 553.74, F.S., adding a member to the Florida Building Commission as a representative of the Department of Agriculture and Consumer Services.

Section 9. Repeals s. 377.806, F.S., relating to the Solar Energy System Incentives Program.

Section 10. Repeals s. 377.807, F.S., relating to the Energy-Efficient Appliance Rebate Program.

Section 11. Provides an effective date of July 1, 2014.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Having access to location and pricing information for alternative fuel and electric vehicle charging stations may facilitate the use of vehicles utilizing these types of energy.

D. FISCAL COMMENTS:

According to the Department of Agriculture and Consumer Services,

The annual membership fee for the Southern States Energy Board is \$47,212.00. Historically this fee was paid with Petroleum Violation Escrow (PVE) settlement agreement funds. However, those funds are now depleted. The Legislature would need to appropriate recurring General Revenue funds in this amount for the purpose of paying the annual membership fee. The department has a FY 14/15 LBR [Legislative Budget Request] Issue to shift funding authority from the Federal Grants Trust Fund to General Revenue to address this.²⁸

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditure of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

Not applicable.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

F L O R I D A H O U S E O F R E P R E S E N T A T I V E S

BILL

ORIGINAL

YEAR

1 A bill to be entitled
 2 An act relating to the Department of Agriculture and
 3 Consumer Services; amending s. 377.6015, F.S.;
 4 removing the power of the Department of Agricultural
 5 and Consumer Services to represent the state in the
 6 Southern States Energy Compact; amending s. 377.703,
 7 F.S.; requiring the department to include in its
 8 annual report recommendations for energy efficiency;
 9 expanding the promotion of the development and use of
 10 renewable energy resources from goals related to solar
 11 energy to renewable energy in general; requiring the
 12 department to cooperate with the Florida Energy
 13 Systems Consortium in the development and use of
 14 renewable energy resources; amending s. 377.712, F.S.;
 15 authorizing the Commissioner of Agriculture to appoint
 16 a member to the Southern States Energy Board;
 17 authorizing the department, in place of the Department
 18 of Health, to approve proposed activities relating to
 19 furtherance of the Southern States Energy Compact;
 20 amending s. 377.801, F.S.; conforming a cross-
 21 reference; amending s. 377.802, F.S.; amending the
 22 purpose of the Florida Energy and Climate Protection
 23 Act; amending s. 377.803, F.S.; conforming provisions
 24 to changes made by the act; creating s. 377.815, F.S.;
 25 authorizing the department to post on its website
 26 information relating to alternative fueling stations

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27 or electric vehicle charging stations; defining the
 28 term "alternative fuel"; authorizing the owner or
 29 operator of an alternative fueling station or an
 30 electric vehicle charging station to report certain
 31 information; amending s. 553.74, F.S.; adding a member
 32 to the Florida Building Commission as a representative
 33 of the Department of Agriculture and Consumer
 34 Services; deleting obsolete provisions; repealing ss.
 35 377.806 and 377.807, F.S., relating to the Solar
 36 Energy System Incentives Program and the Energy-
 37 Efficient Appliance Rebate Program, respectively;
 38 providing an effective date.

39
 40 Be It Enacted by the Legislature of the State of Florida:

41
 42 Section 1. Paragraph (e) of subsection (2) of section
 43 377.6015, Florida Statutes, is repealed.

44 Section 2. Paragraphs (f), (h), and (i) of subsection (2)
 45 of section 377.703, Florida Statutes, are amended to read:

46 377.703 Additional functions of the Department of
 47 Agriculture and Consumer Services.—

48 (2) DUTIES.—The department shall perform the following
 49 functions, unless as otherwise provided, consistent with the
 50 development of a state energy policy:

51 (f) The department shall submit an annual report to the
 52 Governor and the Legislature reflecting its activities and

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53 recommending ~~making recommendations~~ of policies for improvement
54 of the state's response to energy supply and demand and its
55 effect on the health, safety, and welfare of the residents of
56 this state ~~people of Florida~~. The report must ~~shall~~ include a
57 report from the Florida Public Service Commission on electricity
58 and natural gas and information on energy efficiency and
59 conservation programs conducted and underway in the past year
60 and ~~shall~~ include recommendations for energy efficiency and
61 conservation programs for the state, including, ~~but not limited~~
62 ~~to, the following factors:~~

63 1. Formulation of specific recommendations for improvement
64 in the efficiency of energy utilization in governmental,
65 residential, commercial, industrial, and transportation sectors.

66 2. Collection and dissemination of information relating to
67 energy efficiency and conservation.

68 3. Development and conduct of educational and training
69 programs relating to energy efficiency and conservation.

70 4. An analysis of the ways in which state agencies are
71 seeking to implement s. 377.601(2), the state energy policy, and
72 recommendations for better fulfilling this policy.

73 (h) The department shall promote the development and use
74 of renewable energy resources, in conformance with chapter 187
75 and s. 377.601, by:

76 1. Establishing goals and strategies for increasing the
77 use of renewable ~~solar~~ energy in this state.

78 2. Aiding and promoting the commercialization of renewable

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79 energy resources ~~solar energy technology~~, in cooperation with
 80 the Florida Energy Systems Consortium, the Florida Solar Energy
 81 Center, Enterprise Florida, Inc., and any other federal, state,
 82 or local governmental agency that ~~which~~ may seek to promote
 83 research, development, and the demonstration of renewable ~~solar~~
 84 energy equipment and technology.

85 3. Identifying barriers to greater use of renewable ~~solar~~
 86 energy systems in this state, and developing specific
 87 recommendations for overcoming identified barriers, with
 88 findings and recommendations to be submitted annually in the
 89 report to the Governor and Legislature required under paragraph
 90 (f).

91 4. In cooperation with the Department of Environmental
 92 Protection, the Department of Transportation, the Department of
 93 Economic Opportunity, Enterprise Florida, Inc., the Florida
 94 Energy Systems Consortium, the Florida Solar Energy Center, and
 95 the Florida Solar Energy Industries Association, investigating
 96 opportunities, pursuant to the National Energy Policy Act of
 97 1992, the Housing and Community Development Act of 1992, and any
 98 subsequent federal legislation, for renewable energy resources,
 99 ~~solar~~ electric vehicles, and other renewable ~~solar~~ energy
 100 manufacturing, distribution, installation, and financing efforts
 101 that ~~which~~ will enhance this state's position as the leader in
 102 renewable ~~solar~~ energy research, development, and use.

103 5. Undertaking other initiatives to advance the
 104 development and use of renewable energy resources in this state.

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106 In the exercise of its responsibilities under this paragraph,
 107 the department shall seek the assistance of the renewable solar
 108 energy industry in this state and other interested parties and
 109 ~~may is authorized to~~ enter into contracts, retain professional
 110 consulting services, and expend funds appropriated by the
 111 Legislature for such purposes.

112 (i) The department shall promote energy efficiency and
 113 conservation in all energy use sectors throughout the state and
 114 be ~~shall constitute~~ the state agency primarily responsible for
 115 this function. The Department of Management Services, in
 116 consultation with the department, shall coordinate the energy
 117 conservation programs of all state agencies and review and
 118 comment on the energy conservation programs of all state
 119 agencies.

120 Section 3. Section 377.712, Florida Statutes, is amended
 121 to read:

122 377.712 Florida participation.—

123 (1)(a) The Governor shall appoint one member of the
 124 Southern States Energy Board. The member or the Governor may
 125 designate another person as the deputy or assistant to such
 126 member.

127 (b) The President of the Senate shall appoint one member
 128 of the Southern States Energy Board. The member or the president
 129 may designate another person as the assistant or deputy to such
 130 member.

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131 (c) The Speaker of the House of Representatives shall
 132 appoint one member of the Southern States Energy Board. The
 133 member or the speaker may designate another person as the
 134 assistant or deputy to such member.

135 (d) The Commissioner of Agriculture may serve as a member
 136 of the Southern States Energy Board or may appoint a deputy or
 137 assistant from the Department of Agriculture and Consumer
 138 Services to serve.

139 (2) Any supplementary agreement entered into under s.
 140 377.711(6) requiring the expenditure of funds may ~~shall~~ not
 141 become effective as to Florida until the required funds are
 142 appropriated by the Legislature.

143 (3) Departments, agencies, and officers of this state, and
 144 its subdivisions are authorized to cooperate with the board in
 145 the furtherance of ~~any of~~ its activities pursuant to the
 146 compact, provided such proposed activities have been made known
 147 to, and have the approval of, ~~either~~ the Governor or the
 148 Department of Agriculture and Consumer Services ~~Department of~~
 149 ~~Health.~~

150 Section 4. Section 377.801, Florida Statutes, is amended
 151 to read:

152 377.801 Short title.—Sections 377.801-377.804 ~~377.801-~~
 153 ~~377.807~~ may be cited as the "Florida Energy and Climate
 154 Protection Act."

155 Section 5. Section 377.802, Florida Statutes, is amended
 156 to read:

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157 377.802 Purpose.—This act is intended to provide
 158 incentives for Florida's citizens, businesses, school districts,
 159 and local governments to take action to diversify the state's
 160 energy supplies, reduce dependence on foreign oil, and mitigate
 161 the effects of climate change by providing funding for
 162 activities designed to achieve these goals. The grant programs
 163 in this act are intended to stimulate capital investment in and
 164 enhance the market for renewable energy technologies and
 165 technologies intended to diversify Florida's energy supplies,
 166 reduce dependence on foreign oil, and combat or limit climate
 167 change impacts. ~~This act is also intended to provide incentives~~
 168 ~~for the purchase of energy efficient appliances and rebates for~~
 169 ~~solar energy equipment installations for residential and~~
 170 ~~commercial buildings.~~

171 Section 6. Section 377.803, Florida Statutes, is amended
 172 to read:

173 377.803 Definitions.—As used in ss. 377.801-377.804
 174 ~~377.801-377.807~~, the term:

175 (1) "Act" means the Florida Energy and Climate Protection
 176 Act.

177 (2) "Department" means the Department of Agriculture and
 178 Consumer Services.

179 (3) "Person" means an individual, partnership, joint
 180 venture, private or public corporation, association, firm,
 181 public service company, or any other public or private entity.

182 (4) "Renewable energy" means electrical, mechanical, or

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183 thermal energy produced from a method that uses one or more of
 184 the following fuels or energy sources: hydrogen, biomass, as
 185 defined in s. 366.91, solar energy, geothermal energy, wind
 186 energy, ocean energy, waste heat, or hydroelectric power.

187 (5) "Renewable energy technology" means any technology
 188 that generates or utilizes a renewable energy resource.

189 ~~(6) "Solar energy system" means equipment that provides
 190 for the collection and use of incident solar energy for water
 191 heating, space heating or cooling, or other applications that
 192 would normally require a conventional source of energy such as
 193 petroleum products, natural gas, or electricity that performs
 194 primarily with solar energy. In other systems in which solar
 195 energy is used in a supplemental way, only those components that
 196 collect and transfer solar energy shall be included in this
 197 definition.~~

198 ~~(7) "Solar photovoltaic system" means a device that
 199 converts incident sunlight into electrical current.~~

200 ~~(8) "Solar thermal system" means a device that traps heat
 201 from incident sunlight in order to heat water.~~

202 Section 7. Section 377.815, Florida Statutes, is created
 203 to read:

204 377.815 Alternative fueling stations and electric vehicle
 205 charging stations.--The Department of Agriculture and Consumer
 206 Services may post information on its website relating to
 207 alternative fueling stations or electric vehicle charging
 208 stations that are available for public use in this state.

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209 (1) As used in this section, the term "alternative fuel"
210 means nontraditional transportation fuel, such as pure methanol,
211 ethanol, and other alcohols; blends of 85 percent or more of
212 alcohol with gasoline; natural gas and liquid fuels domestically
213 produced from natural gas; liquefied petroleum gas; coal-derived
214 liquid fuels; hydrogen; electricity; pure biodiesel; fuels,
215 other than alcohol, derived from biological materials; and P-
216 series fuels.

217 (2) An owner or operator of an alternative fueling station
218 that is available in this state may report the following
219 information to the department:

- 220 (a) The type of alternative fuel available;
- 221 (b) The station's name, address, or location; or
- 222 (c) The fees or costs associated with the alternative fuel
223 that is available for purchase.

224 (3) The owner or operator of an electric vehicle charging
225 station that is available in this state may report the following
226 information to the department:

- 227 (a) The station's name, address, or location; or
- 228 (b) The fees or costs, if any, associated with the
229 electric vehicle charging services provided by the station.

230 Section 8. Subsection (1) of section 553.74, Florida
231 Statutes, is amended to read:

232 553.74 Florida Building Commission.—

233 (1) The Florida Building Commission is created and located
234 within the Department of Business and Professional Regulation

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235 for administrative purposes. Members are appointed by the
 236 Governor subject to confirmation by the Senate. The commission
 237 is composed of 27 ~~26~~ members, consisting of the following:

238 (a) One architect registered to practice in this state and
 239 actively engaged in the profession. The American Institute of
 240 Architects, Florida Section, is encouraged to recommend a list
 241 of candidates for consideration.

242 (b) One structural engineer registered to practice in this
 243 state and actively engaged in the profession. The Florida
 244 Engineering Society is encouraged to recommend a list of
 245 candidates for consideration.

246 (c) One air-conditioning or mechanical contractor
 247 certified to do business in this state and actively engaged in
 248 the profession. The Florida Air Conditioning Contractors
 249 Association, the Florida Refrigeration and Air Conditioning
 250 Contractors Association, and the Mechanical Contractors
 251 Association of Florida are encouraged to recommend a list of
 252 candidates for consideration.

253 (d) One electrical contractor certified to do business in
 254 this state and actively engaged in the profession. The Florida
 255 Association of Electrical Contractors ~~Association~~ and the
 256 National Electrical Contractors Association, Florida Chapter,
 257 are encouraged to recommend a list of candidates for
 258 consideration.

259 (e) One member from fire protection engineering or
 260 technology who is actively engaged in the profession. The

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261 Florida Chapter of the Society of Fire Protection Engineers and
 262 the Florida Fire Marshals and Inspectors Association are
 263 encouraged to recommend a list of candidates for consideration.

264 (f) One general contractor certified to do business in
 265 this state and actively engaged in the profession. The
 266 Associated Builders and Contractors of Florida, the Florida
 267 Associated General Contractors Council, and the Union
 268 Contractors Association are encouraged to recommend a list of
 269 candidates for consideration.

270 (g) One plumbing contractor licensed to do business in
 271 this state and actively engaged in the profession. The Florida
 272 Association of Plumbing, Heating, and Cooling Contractors is
 273 encouraged to recommend a list of candidates for consideration.

274 (h) One roofing or sheet metal contractor certified to do
 275 business in this state and actively engaged in the profession.
 276 The Florida Roofing, Sheet Metal, and Air Conditioning
 277 Contractors Association and the Sheet Metal and Air Conditioning
 278 Contractors' ~~Contractors~~ National Association are encouraged to
 279 recommend a list of candidates for consideration.

280 (i) One residential contractor licensed to do business in
 281 this state and actively engaged in the profession. The Florida
 282 Home Builders Association is encouraged to recommend a list of
 283 candidates for consideration.

284 (j) Three members who are municipal or district codes
 285 enforcement officials, one of whom is also a fire official. The
 286 Building Officials Association of Florida and the Florida Fire

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287 Marshals and Inspectors Association are encouraged to recommend
 288 a list of candidates for consideration.

289 (k) One member who represents the Department of Financial
 290 Services.

291 (l) One member who is a county codes enforcement official.
 292 The Building Officials Association of Florida is encouraged to
 293 recommend a list of candidates for consideration.

294 (m) One member of a Florida-based organization of persons
 295 with disabilities or a nationally chartered organization of
 296 persons with disabilities with chapters in this state.

297 (n) One member of the manufactured buildings industry who
 298 is licensed to do business in this state and is actively engaged
 299 in the industry. The Florida Manufactured Housing Association is
 300 encouraged to recommend a list of candidates for consideration.

301 (o) One mechanical or electrical engineer registered to
 302 practice in this state and actively engaged in the profession.
 303 The Florida Engineering Society is encouraged to recommend a
 304 list of candidates for consideration.

305 (p) One member who is a representative of a municipality
 306 or a charter county. The Florida League of Cities and the
 307 Florida Association of Counties are encouraged to recommend a
 308 list of candidates for consideration.

309 (q) One member of the building products manufacturing
 310 industry who is authorized to do business in this state and is
 311 actively engaged in the industry. The Florida Building Material
 312 Association, the Florida Concrete and Product ~~Products~~

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313 Association, and the Fenestration Manufacturers Association are
 314 encouraged to recommend a list of candidates for consideration.

315 (r) One member who is a representative of the building
 316 owners and managers industry who is actively engaged in
 317 commercial building ownership or management. The Building Owners
 318 and Managers Association is encouraged to recommend a list of
 319 candidates for consideration.

320 (s) One member who is a representative of the insurance
 321 industry. The Florida Insurance Council is encouraged to
 322 recommend a list of candidates for consideration.

323 (t) One member who is a representative of public
 324 education.

325 (u) One member who is a swimming pool contractor licensed
 326 to do business in this state and actively engaged in the
 327 profession. The Florida Swimming Pool Association and the United
 328 Pool and Spa Association are encouraged to recommend a list of
 329 candidates for consideration.

330 (v) One member who is a representative of the green
 331 building industry and who is a third-party commission agent, a
 332 Florida board member of the United States Green Building Council
 333 or Green Building Initiative, a professional who is accredited
 334 under the International Green Construction Code (IGCC), or a
 335 professional who is accredited under Leadership in Energy and
 336 Environmental Design (LEED).

337 (w) One member who is a representative of a natural gas
 338 distribution system and who is actively engaged in the

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339 distribution of natural gas in this state. The Florida Natural
 340 Gas Association is encouraged to recommend a list of candidates
 341 for consideration.

342 (x) One member who is a representative of the Department
 343 of Agriculture and Consumer Services who is appointed from a
 344 list of three nominees provided by the Commissioner of
 345 Agriculture. If the Governor refuses to appoint a nominee from
 346 this list, the Governor must inform the commissioner within 60
 347 days of receipt of the list, and the commissioner must submit a
 348 new list of three nominees.

349 (y) ~~(x)~~ One member who shall be the chair.

350
 351 ~~Any person serving on the commission under paragraph (c) or~~
 352 ~~paragraph (h) on October 1, 2003, and who has served less than~~
 353 ~~two full terms is eligible for reappointment to the commission~~
 354 ~~regardless of whether he or she meets the new qualification.~~

355 Section 9. Section 377.806, Florida Statutes, is repealed.

356 Section 10. Section 377.807, Florida Statutes, is
 357 repealed.

358 Section 11. This act shall take effect July 1, 2014.